

January 10, 2018

Mr. Devin Leary
Human & Rohde, Inc.
512 Virginia Avenue
Towson, MD 21286

Re: Wylie Funeral Home
9200 Liberty Road
Forest Conservation Variance
Tracking #04-17-2634

Dear Mr. Leary:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability, Title 6 Forest Conservation was received by this Department on December 21, 2017. This request proposes to base the afforestation and reforestation required by Section 33-6-111 of the Forest Conservation Law on the 0.9-acre limit of disturbance (LOD) rather than the entire 4.8-acre property and to remove one specimen tree, a 32-inch DBH tulip poplar in good condition within forest proposed to be cleared.

The Director of the Department of Environmental Protection and Sustainability (DEPS) may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. The applicant is seeking to expand the Wylie Funeral Home's existing parking lot by 75 new parking spaces as well as expand the existing stormwater management (SWM) facility. The project will impact 0.9 acre of land, 0.2 of which is forested. Using the LOD to calculate afforestation and reforestation requirements would require the applicant to provide 0.4 acre of reforestation instead of 1.6 acres. Additionally, the expansion could be redesigned to avoid the specimen tree. Finally, the petitioner is already realizing significant use of the property. Therefore, full

application of the law to the entire property would not deprive the applicant of all beneficial use of the property, so we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d) (2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The proposed parking lot expansion is necessary for the accommodation of the funeral home's growing business. General conditions of the neighborhood have no direct bearing on this need. Therefore, the petitioner's plight is due to unique circumstances and not associated with general conditions in the neighborhood. Consequently, we find that the second criterion has been met.

The third criterion (Subsection 33-6-116(d) (3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The surrounding neighborhood consists of largely commercial structures and businesses, as well as a residential area to the rear of the site. Therefore, allowing the LOD to be used to calculate forest conservation requirements as well as removal of one specimen tree will not alter the essential character of the neighborhood, and this criterion has been met.

The fourth criterion (Subsection 33-6-116(e) (1) of the Code) requires that the granting of the special variance will not adversely affect water quality. While the proposed variance will allow the property owners to provide 0.4 acre of reforestation instead of 1.6 acres, the project will not impact any floodplains, streams, steep slopes, critical habitats, or large contiguous forests or associated buffer areas. Proper sediment controls will be utilized in accordance with an Erosion and Sediment Control Plan. Trees provide important water quality benefits by reducing storm water runoff and sedimentation and absorbing pollutants. The proposed project will result in the removal of 0.2 acre of forest; however, since the proposed variance will require reforestation of 0.4 acre, the proposed variance will not adversely affect water quality. As a result, the proposed variance will not adversely affect water quality, so this criterion has been met.

The fifth criterion (Subsection 33-6-116(e) (2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any prior actions affecting the property to necessitate this variance request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of DEPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Reducing the planting obligation based on the LOD for the expansion of the existing parking lot and SWM facility and removing one specimen tree would be consistent with the spirit and intent of the Forest Conservation Law. This is especially true given the minimal size of the LOD and the fact

Mr. Devin Leary
Wylie Funeral Home
Forest Conservation Variance
January 10, 2018
Page 3

that no buffers or significant forest would be impacted. Therefore, this criterion has been met.

Based on our review, this Department finds that all required variance criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code contingent upon the following conditions:

1. The LOD and associated forest clearing shall be limited to the 0.9 acre area shown on the plans accompanying the variance application.
2. The 0.4 acre of reforestation shall be addressed by either the purchase of credit in an EPS-approved forest planting bank or payment of an \$8,712 fee in lieu prior to issuance of any permit for this forest clearing activity. A letter authorizing this planting bank purchase is enclosed for your use.
3. The following note must be on all plans for this project:

A variance was granted on January 10, 2018 by Baltimore County Dept. of Environmental Protection & Sustainability to allow forest conservation planting requirements to be based on the 0.9-acre limit of disturbance for the parking lot expansion rather than the entire 4.8-acre property as well as to allow the removal of a 32-inch DBH specimen tree. Conditions were placed on this variance to ensure that the spirit and intent of the Forest Conservation Law were met in constructing the expansion and mitigating its impacts.

4. A final forest conservation plan shall be submitted and approved by EPS staff prior to grading and sediment control plan approval.
5. Granting this variance does not exempt future development activities on this property from full compliance with the Forest Conservation Law.

No mitigation is required for the specimen tree, as its removal will be addressed through the 0.4 acre of offsite reforestation.

It is the intent of this Department to approve this variance. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the party responsible for meeting the conditions of this variance sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

Mr. Devin Leary
Wylie Funeral Home
Forest Conservation Variance
January 10, 2018
Page 4

If you have any questions regarding this correspondence, please call Ms. Libby Errickson at (410) 887-3980.

Sincerely yours,

David V. Lykens
Deputy Director

DVL/lbe

Enclosure

c. (w/encl.) Wylie Funeral Home, PA

I/we agree to the above conditions to bring my/our property into compliance with Baltimore County's Forest Conservation Law.

Owner's Signature

Date

Printed Name